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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,506	03/28/2001	Dennis Sunga Fernandez	FERN-P001D	8534

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EXAMINER

VO, TUNG T

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 01/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,506

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung T. Vo

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 20-37 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 20-21, 23, 24, 26, 28, and 30-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Bursell et al. (US 5,993,001).

Re claims 20, 31, and 33, Bursell discloses an integrated tele-medicine system (fig. 1) using fixed and mobile processor communications (12, 20A and 20B of fig. 1, e.g. wherein the element (12) is mobile to communicate with the Examination unit (20A or 20 B) is fixed at a remote location through the telecommunication link (22 of fig. 1) and the network server/Ethernet (14 of fig. 1)) for enabling remote medical care, the system comprising:

a care-giver processor (20A and/or 20B of fig. 1) coupled to a packet-switched digital network (14 or 22 of fig. 1), the care-giver processor (20A and/or 20B of fig. 1) accessing a database including a representation of an identity and a location of at least one remote patient (18 of fig. 1, e.g. the central computer (18) stored a representation of an identity and location of the remote patient, medical records);

a mobile communications unit (12 of fig. 1) physically associated with a remote patient for monitoring at least one medical vital sign of such remote patient, the mobile communications unit communicating such monitored vital sign to the care-giver processor through the digital network (30, 36, 14 of fig. 1);

and a first detector (32, 34, and 30 of fig. 1) coupled to the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to be located within a first observation range of the selected first detector (34 of fig. 1, e.g. the camera is capturing an image of the remote patient within the observation range, where the remote patient is being examined).

Re claims 21 and 32, Bursell further teaches a second detector (32 of fig. 1, e.g. the camera (32) is able to capture the remote patient within a second observation range) coupled to

the digital network and selected by the care-giver processor for observing the remote patient when such remote patient is determined by the care-giver processor to have moved and subsequently located within a second observation range of the selected second detector.

Re claim 23, Bursell further discloses the mobile communications unit (12 of fig. 1, e.g. the mobile communications unit (12) is moving, so the mobile communication unit must has an accelerometer for measuring the acceleration of the mobile communication unit) comprises an accelerometer.

Re claim 24, Bursell further discloses a software agent (30 of fig. 1, e.g. the computer (30) has a software, a programmed instructions, to access a database (18 of fig. 1)) associated with such remote patient accesses a database.

Re claim 26, Bursell further discloses an object representation of such remote patient comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio broadcast signal (30 of fig. 1, e.g. the computer is able to receive an image that is captured by the camera (32 and 34 of fig. 1), object image).

Re claim 28, Bursell further discloses the remote patient is monitored temporarily using an extrapolated or last-stored positional or visual signal (20A and 20B of fig. 1, e.g. visual image is being viewed by the operator at examination unit).

Re claim 30, Bursell further discloses an electronic file comprising a book, a greeting card, a news report, a sports report, a stock report, an artwork, a research database, a personal list, a recorded or live voice or music transmission, an electronic tool, or a commercial transaction is provided to the remote patient (20A and 20B of fig. 1, e.g. the examination can send the recorded information to the remote patient through telecom link and/or network server (14 of fig. 1)).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22, 25, 27, 29 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bursell et al. (US 5,993,001) as applied to claims 20, 31, and 33, and further in view of Kennedy, III et al. (US 6,301,480).

Re claims 22, 25, 27, 29, and 34, Bursell teaches the limitations above and further teaches an observation signal being generated by the first detector uncoupled to such remote patient in the observable range (34 of fig. 1) but Bursell does not particularly teach a position signal (GPS signal) being generated by the mobile communications unit coupled to the remote patient when such remote patient is moveable within an observable range; a portable identifier associated with such remote patient is used for communication therewith; and an authentication according to a

voice pattern, a finger-print pattern, a handwritten signature, or a magnetic or smart-card signal as claimed.

However, Kennedy further discloses wherein a position signal being generated by the mobile communications unit (GPS receiver (12 of fig. 1)) coupled to the remote patient when such remote patient is moveable within an observable range, an observation signal being generated by the first detector uncoupled to such remote patient in the observable range (56 of fig. 1); a portable identifier associated with such remote patient is used for communication therewith (col. 4, lines 60-67, other identifier of mobile unit (12 of fig. 1) to an associated work-station (56 of fig. 1)); a cell phone (12 of fig. 1) is authenticated according to a voice pattern, a finger-print pattern, a handwritten signature, or a magnetic or smart-card signal.

Therefore, taking the combined teachings of Bursell and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the system of Bursell for the same purpose of communicating between the remote patient and central station fast and more accuracy. Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items that desire a selection of services. These services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

6. Claims 35, 36, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bursell et al. (US 5,993,001) as applied to claims 20, 31, and 33, and further in view of Coli et al. (US 6,018,713).

Re claims 35-37, Bursell further discloses the caregiver processor (20A and 20B of fig. 1) confirms the remote patient identity by processing a visual image of the remote patient adaptive or neural learning software to recognize such patient. It is noted that Bursell does not particularly teach the caregiver processor for thereby enabling health-care billing to the appropriate patient as claimed.

However, Coli teaches the caregiver processor for thereby enabling health-care billing to the appropriate patient (col. 4, lines 43-61; e.g. the system offers readily available online access to databases containing patient, laboratory, and medical testing information; online report generation capabilities; online product information; and automatic billing for services performed). Taking the teachings of Coli and Bursell as a whole, it would have been obvious to one skill of ordinary skill in the art to incorporate the teaching of Coli into the system of Bursell for the same purpose of billing the remote patient through the network. Doing so would reduce time and cost of mailing the bill the patient.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2613

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung T. Vo whose telephone number is (703) 308-5874. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.


TUNG T. VO
PATENT EXAMINER

T.VO

Tung T. Vo
Examiner
Art Unit 2613